

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 03030 HB	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/004790	International filing date (day/month/year) 06.05.2004	Priority date (day/month/year) 06.05.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant CHEMETALL GMBH		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table><tr><td><input checked="" type="checkbox"/></td><td>Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/></td><td>Box No. II</td><td>Priority</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/></td><td>Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. VIII</td><td>Certain observations on the international application</td></tr></table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report																								
Name and mailing address of the IPEA/EP	Authorized officer																								
Facsimile No.	Telephone No.																								

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:

☐ international search (Rule 12.3 and 23.1(b))

☐ publication of the international application (Rule 12.4)

☐ international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☐ the international application as originally filed/furnished

☒ the description:

pages 1-25 as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

☒ the claims:

nos. 1-16 as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* _____ received by this Authority on _____

nos.* _____ received by this Authority on _____

☐ the drawings:

sheets _____ as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (specify): _____

☐ any table(s) related to sequence listing (specify): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages _____

☐ the claims, nos. _____

☐ the drawings, sheets/figs _____

☐ the sequence listing (specify): _____

☐ any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 14

because:

☐ the said international application, or the said claims Nos. _____
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____
are so unclear that no meaningful opinion could be formed (*specify*):

☒ the claims, or said claims Nos. 14 (in part) are so inadequately supported
by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form ☐ has not been furnished
☐ does not comply with the standard

the computer readable form ☐ has not been furnished
☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims <u>1-16</u>	YES
	Claims _____	NO
Inventive step (IS)	Claims _____	YES
	Claims <u>1-16</u>	NO
Industrial applicability (IA)	Claims <u>1-16</u>	YES
	Claims _____	NO

2. Citations and explanations (Rule 70.7)

1 This report makes reference to the following documents:

D1: EP 0 045 110 A (METALLGESELLSCHAFT AG; PARKER
STE CONTINENTALE (FR)) 3 February 1982
(1982-02-03)

D2: DE 38 00 835 A (HENKEL KGAA) 27 July 1989
(1989-07-27)

2) Document D1 (see page 1, line 1 to page 2, line 17; page 3, line 11 to page 5, line 19 and the claims) discloses a method for phosphating steel surfaces as preparation for cold working. The method produces a fine crystalline layer and forms very little sludge. The solutions used preferably contain zinc, phosphate, calcium, chlorate and (in particular 10-30 g/l) nitrate or nitroguanidine. The solution may also contain fluoride or complex fluoride. The amount of zinc, phosphate, calcium and chlorate falls within the range now claimed.

No amount is mentioned for the nitroguanidine or

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>for the fluoride or complex fluoride. The subject matter of claims 1 and 14-16 is thus novel (PCT Article 33(2)).</p>
2.1)	<p>The problem addressed by the invention in relation to the disclosure of D1 is that of proposing further methods or solutions which produce fine crystalline layers and little sludge.</p>
	<p>A person skilled in the art would see from document D2 (see page 2, line 21 - column 3, line 25, the claims and the examples) that 0.1 to 2.0 g/l nitroguanidine can replace 10 to 100 g/l nitrate in very similar phosphating solutions and that in such solutions a fluoride or complex fluoride content of 0.01 to 10 g/l is common. A person skilled in the art would therefore readily use the methods and solutions to solve the problem of interest. It is assumed that the ratio indicated in claim 14 is then reached.</p> <p>Consequently, the subject matter of claims 1 and 14-16 is non-inventive (PCT Article 33(3)).</p>
2.2)	<p>Dependent claims 2-13 do not contain any features which, in combination with the features of claim 1, to which they refer, meet the PCT requirements for inventive step. The claims define either features which a person skilled in the art would necessarily use in pre-treatment for cold working or minor, obvious modifications to the bath composition.</p>

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claim 14 defines a method for coating metallic surfaces with a phosphating solution, characterised by a ratio between removal by pickling and the layer weight of the phosphate layer. This ratio is determined in an incalculable manner by, for example, the solution, the method parameters and the metal. The disclosure in the application, however, describes only certain phosphating solutions and methods for coating steel. The description allows a person skilled in the art to set this ratio only in relation to those solutions or when phosphating steel. Claim 14 is therefore not supported across the entire range claimed (PCT Article 6).

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

As indicated in Box VIII, claim 14 is not supported by the disclosure across the full range of subject matter claimed (PCT Article 6). During the search and for the purposes of this report a search and examination were carried out, respectively, in relation to claim 14 only insofar as the subject matter thereof is supported (PCT Articles 17(2)(a)(ii) and 34(4)(a)(ii)). The search and examination were restricted to methods in which a solution such as defined in claim 1, with the exception that it may also be free of nitroguanidine, is used to treat steel surfaces.